

# STANDARDS COMMITTEE

24th October 2013

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## MONITORING OFFICER'S REPORT

Relevant Portfolio Holder	Councillor John Fisher, Portfolio Holder for Corporate Management
Portfolio Holder consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Wards affected	All Wards
Ward Councillor consulted	N/A
Non-Key Decision	

### 1. SUMMARY OF PROPOSALS

- 1.1 This report sets out the position in relation to key matters which are of relevance to the Standards Committee.
- 1.2 It is proposed that a report of this nature be presented to each meeting of the Committee to ensure that Members are kept updated as to any relevant developments.
- 1.3 Any further updates arising after publication of this report will be reported orally at the meeting.

### 2. RECOMMENDATIONS

**The Committee is asked to RESOLVE that**

**the report of the Monitoring Officer be noted and commented upon as appropriate, in particular the issues highlighted at paragraphs 3.10 to 3.12 (press and media protocol for Members) and paragraphs 3.13 to 3.16 (inter-Member complaints process) of the report.**

### 3. KEY ISSUES

#### Financial Implications

- 3.1 There are no financial implications arising out of this report.

#### Legal Implications

- 3.2 The Localism Act became law on 15th November 2011. Chapter 7 of Part 1 of the Localism Act 2011 introduced a new standards regime effective from 1st July 2012. The Act places a requirement on authorities to promote and maintain high standards of conduct by Members and co-opted (with voting

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rights) Members of an authority. The Act also requires the authority to have in place arrangements under which allegations that either a district or parish councillor has breached his or her Code of Conduct can be investigated, together with arrangements under which decisions on such allegations can be made. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 were laid before Parliament on 8th June 2012 and also came into force on 1st July.

## **Service / Operational Implications**

### **Member Complaints received from July to September 2013**

- 3.3 No Members complaints were received during the period 1st July to 30th September 2013.

### **Number of Investigations referred for Investigation during 2012/13: 1**

- 3.4 The Council has agreed that details of any complaints managed and resolved locally by the Monitoring Officer, without the need for a formal investigation, should not be made public and that only the numbers and general trends of any such complaints be reported to the Standards Committee.
- 3.5 Where an investigation does take place, it was decided that the investigation would remain confidential until “any formal investigation process had been completed and the Investigating Officer’s findings known, when information on the parties, the complaint and the outcome should be publicly available” (unless, in exceptional circumstances the Monitoring Officer considers it appropriate for any such information to be withheld).

### **Report of Investigation to Standards Committee**

- 3.6 A complaint was made on 17th October 2012 by Councillor Greg Chance that two members of the Council, Councillor Juliet Brunner and Councillor Gay Hopkins had failed to follow the Council’s Code of Conduct. The complaint related to an article which appeared in the Redditch Advertiser on 17th October 2012. The article was a press release made by Councillors Brunner and Hopkins to the paper following a meeting of the Council’s Overview and Scrutiny Committee on 9th October 2012. This was attended by Councillor Chance as Portfolio Holder for Planning, Regeneration, Economic Development and Transport to answer a number of pre-set queries including some relating to local development plans.

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## Outcome of Investigation and Recommendations for consideration by the Standards Committee

- 3.7 Following a decision by a Standards Assessment Sub-Committee that the complaint should be investigated, the Monitoring Officer appointed an external investigator, Mr Kevin Douglas. Mr Douglas concluded that whilst licence had been taken in the way the Portfolio Holder's responses were reported, that was part of the political interaction in which councillors were engaged in order to gain political advantage. He concluded that in the absence of guidance or rules to Members about press releases and media contact generally, leaving the area unregulated, there was no breach of the Code of Conduct but that the Council may want to consider a protocol moving forward.
- 3.8 The purpose of this Report is to discuss the recommendation made by the Investigating Officer and the issue raised by the Independent Person at the conclusion of the process, and for the Committee to decide on how these can be acted upon with a view to promoting and maintaining high standards of conduct by Members and co-opted Members of the authority and to fulfil the statutory duty under the Localism Act 2011.
- 3.9 With regard to the decision on the complaint, the Monitoring Officer considered the Report in consultation with the Independent Person as required by the Council's Arrangements for dealing with complaints against Members. The Monitoring Officer and Independent Person agreed with the Report's findings and reasoning. The Monitoring Officer then wrote to the parties to tell them so and to confirm that she was satisfied that no further action was required and that the complaint was concluded.

## Matters for the Committee's consideration

- 3.10 Although the Investigating Officer's finding was that there had not been a breach of the Code of Conduct, it was coupled with a recommendation that the Council should give consideration to agreeing a protocol for contact with the press and media by Members and in particular by senior Members of the Council.
- 3.11 The main purpose of such a protocol would be to confirm the accuracy of information provided and to afford a right of reply to any councillor who is quoted or cited in the information. The recommendation was that the Monitoring Officer should be requested to liaise with the Council's press team with a view to such a protocol being developed.

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- 3.12 Officers have already started researching media protocols and the Monitoring Officer asks members of the Committee to agree this course of action and for this task to be included on the Committee's Work Programme.
- 3.13 The second matter was raised by the Independent Person and related to the length of time it had taken from when the complaint was made until it was concluded, some 9 months later.
- 3.14 During that time, the Monitoring Officer was asked periodically about the length of time that the process was taking and a question about this was also raised at the Standards Committee meeting on 8th April 2013. There were long delays throughout this case, both before and after the appointment of the Independent Investigator. The Monitoring Officer wishes to assure the Committee that she makes every effort to progress a complaint as quickly as possible. She is, however, reliant upon Members, and where appropriate Group Leaders, fully engaging with the process to assist in resolving a complaint in a timely manner.
- 3.15 The Localism Act 2011 abolished the old Standards regime, which involved a very prescriptive process for handling complaints against Members. It was generally framed in a formal and adversarial style where parties were kept entirely separate throughout the process. There were quite onerous sanctions, including the ability to suspend a Member, which no longer apply. It was intended that the new process would facilitate local resolution of complaints by the Monitoring Officer, with the help of the Independent Person and with the parties being involved in the process from the outset, recognising that Group Leaders would have an important role in achieving this. It was envisaged that only in exceptional circumstances would a Hearing be necessary. The process now is more a matter of the Monitoring Officer, with the assistance of the Independent Person, managing a dialogue between parties, with their active involvement from the outset, so that a complaint can be resolved in the context of maintaining high standards of conduct. The range of outcomes now available supports this approach.
- 3.16 Where a complaint is made by a Member about a Member the Monitoring Officer would ask the Committee to consider whether the Arrangements for handling complaints should be amended so that in the first instance an inter-Member complaint should first be referred to the Group Leaders to resolve before referral to the Monitoring Officer. This would strengthen the role of Group Leaders in inter-Member complaints, enable them to be more proactive in dealing with them in the first instance and encourage their Member/s engagement in the process.

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- 3.17 The approach at paragraph 3.16 would be taken where both Members concerned are members of a political group. For any inter-Member complaints where either the complainant or the subject Member is not a member of a political group or is a Group Leader, the Monitoring Officer would continue to progress the complaint from the outset as per the current arrangements. Equally, any complaints made against a Member by either a member of the public or other non-Member third party would also continue to be dealt with by the Monitoring Officer from the outset.
- 3.18 Should the Committee support this approach the Monitoring Officer will take the matter up with Group Leaders in the first instance and report back to Committee at the next meeting.

## Member Training

- 3.19 The Member Support Steering Group has been meeting regularly to review and plan training and development for Members.
- 3.20 Over the last 6 months training sessions have been held on safeguarding children and vulnerable adults. A further session was arranged in early October as a number of Councillors who wished to attend were unable to go to the original event. This has been well received and is an important subject to help Councillors in their ward roles.
- 3.21 Refresher sessions have been held for members of the Licensing and Standards Committees and the Audit and Governance Committee. The external auditors, Grant Thornton, have also delivered training on the importance of the Audit function in governance, which was well received.
- 3.22 Overview and Scrutiny Committee has held a work planning event with a difference this year, which included a refresher about the powers and operation of the Committee.

## Council approval of Standards Committee recommendations – updated Arrangements for Handling Standards Complaints against Members

- 3.23 At its meeting on 9th September 2013 full Council agreed the recommendations of the 25th July 2013 Standards Committee for the Arrangements for Managing Standards Complaints against Members to be updated to include a minor change in relation to complaints referred to the Police by the Monitoring Officer, and for the role of the non-voting Independent Observer to continue for the coming year.

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## **Customer / Equalities and Diversity Implications**

- 3.24 Any process for managing standards of behaviour for elected and co-opted Councillors must be accessible to the public. It is therefore proposed that an impact assessment will be carried out on the complaints process when established, to ensure accessibility.
- 3.25 In addition, it is proposed that the new arrangements will be publicised on the Council's website and that Officers will work to ensure that members of the public are made aware of the process for making a complaint through all existing community engagement events.

## **4. RISK MANAGEMENT**

The main risks associated with the details included in this report are:

- Risk of challenge to Council decisions; and
- Risk of complaints about elected Members.

## **5. APPENDICES**

None

## **6. BACKGROUND PAPERS**

Chapter 7 of the Localism Act 2011.

Complaint papers and various reports to and minutes of meetings of the Standards Committee and Full Council, as detailed in the report.

## **AUTHOR OF REPORT**

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